

C O M M I T T E E O N L E G I S L A T I V E R E S E A R C H
O V E R S I G H T D I V I S I O N

FISCAL NOTE

L.R. NO.: 1132-01
BILL NO.: HB 229
SUBJECT: CHILDREN AND MINORS; CRIMES AND PUNISHMENT
TYPE: ORIGINAL
DATE: JANUARY 28, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
GENERAL REVENUE*	LESS THAN (\$100,000)	LESS THAN (\$100,000)	LESS THAN (\$100,000)
TOTAL ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	LESS THAN (\$100,000)	LESS THAN (\$100,000)	LESS THAN (\$100,000)

*DEPARTMENT OF CORRECTIONS COSTS EXPECTED TO EXCEED \$100,000 PER YEAR BEGINNING FY 2009.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
NONE			

TOTAL ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
	\$0	\$0	\$0

NUMBERS WITHIN PARENTHESES: () INDICATE COSTS OR LOSSES.
 THIS FISCAL NOTE CONTAINS 10 PAGES.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
NONE			
TOTAL ESTIMATED NET EFFECT ON <u>ALL</u> FEDERAL FUNDS	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
LOCAL GOVERNMENT	\$0 TO (UNKNOWN)	\$0 TO (UNKNOWN)	\$0 TO (UNKNOWN)

FISCAL ANALYSIS

ASSUMPTION

OFFICIALS FROM THE DEPARTMENT OF SOCIAL SERVICES AND THE DEPARTMENT OF PUBLIC SAFETY – STATE HIGHWAY PATROL ASSUME THE PROPOSED LEGISLATION WOULD HAVE NO FISCAL IMPACT ON THEIR AGENCIES.

OFFICIALS FROM THE OFFICE OF STATE COURTS ADMINISTRATOR ASSUME THE PROPOSED LEGISLATION WOULD HAVE NO FISCAL IMPACT ON THE COURTS.

OFFICIALS FROM THE OFFICE OF PROSECUTION SERVICES ASSUME THE PROPOSAL MAY LEAD TO MORE JURY TRIALS FROM PROSECUTORS BECAUSE THE MINIMUM TERMS FOR THESE CRIMES IS INCREASED. THE IMPACT ON PROSECUTORS IS UNKNOWN.

OFFICIALS FROM THE OFFICE OF ATTORNEY GENERAL (AGO) ASSUME THE LEGISLATION MAY RESULT IN ADDITIONAL APPEALS BECAUSE THE MINIMUM TERM OF IMPRISONMENT WILL INCREASE FROM FIVE YEARS TO TEN YEARS. AS A RESULT, AGO ASSUMES THAT FUTURE COSTS ARE UNKNOWN.

ASSUMPTION (CONTINUED)

OVERSIGHT ASSUMES THE AGO COULD EXPERIENCE AN INCREASE IN CASE LOAD DUE TO THE PROPOSED LEGISLATION. OVERSIGHT ASSUMES THE AGO COULD ABSORB THE COST OF THE INCREASED CASE LOAD WITHIN EXISTING RESOURCES. IF THE AGO EXPERIENCES AN INCREASE THAT WOULD JUSTIFY ADDITIONAL FTE, THE AGO COULD REQUEST FUNDING THROUGH THE APPROPRIATION PROCESS.

OFFICIALS FROM THE DEPARTMENT OF CORRECTIONS (DOC) ASSUME SECTIONS 566.030 AND 566.060 HAVE BEEN MODIFIED TO EXTEND THE MINIMUM PRISON TERM FOR FORCIBLE RAPE OR FORCIBLE SODOMY OR THE ATTEMPTS THEREOF FROM THE CURRENT 5 YEARS TO 10 YEARS AND FROM 10 TO 15 YEARS FOR THE SAME OFFENSES WHEN A DEADLY WEAPON IS USED.

IN FY01 THERE WERE 6 NEW ADMISSIONS FOR FORCIBLE RAPE WITH SENTENCES OF LESS THAN 10 YEARS, 4 ADMISSIONS FOR FORCIBLE RAPE WITH A DEADLY WEAPON WITH SENTENCES LESS THAN 13 YEARS, 4 ADMISSIONS FOR FORCIBLE SODOMY WITH SENTENCES LESS THAN 10 YEARS AND 3 ADMISSIONS FOR FORCIBLE SODOMY WITH A DEADLY WEAPON WITH SENTENCES LESS THAN 13 YEARS. THE IMPACT OF THE INCREASING OF THESE SENTENCES IS ESTIMATED TO BE AN ADDITIONAL 2 YEARS SERVED IN PRISON FOR 17 OFFENDERS PER YEAR.

THEREFORE, THE TOTAL IMPACT IS 34 INMATES PER YEAR, BUT THE IMPACT WOULD NOT OCCUR UNTIL THE OFFENDERS HAD SERVED THEIR ORIGINAL TIME, ESTIMATED AT APPROXIMATELY 4.8 YEARS OUT. IN SUMMARY, 17 MORE OFFENDERS WOULD BE SERVING TIME IN THE DOC BEGINNING IN THE 6TH YEAR OUT.

THE FOLLOWING CHARTS DETAIL THE ESTIMATED FISCAL IMPACT FOR THE SCOPE OF THE FISCAL NOTE (FYS 2004, 2005, AND 2006), THE ESTIMATED TEN-YEAR FISCAL IMPACT, AND THE ASSUMPTIONS USED IN DETERMINING THESE COSTS:

FORCIBLE RAPE AND SODOMY MINIMUM SENTENCE INCREASE			
	<u>COST</u>	<u>DAYS</u>	<u>TOTAL</u>
OPERATING EXPENSES	35.52	365	12,965
CONSTRUCTION (C4 OR C5 \$55,000)			0
EMERGENCY HOUSING	0.00	365	0
OPERATING INFLATION (3.0%)			1.030
EMER. HSG. INFLATION (10%)			1.100
CONSTRUCTION INFLATION (3.0%)			1.030

ASSUMPTION CONTINUED

	END FY POPULATION	AVERAGE POPULATION	EMER HSG EXPENSE	OPERATING EXPENSE	CONSTRUCTION EXPENSE	TOTAL COST W/ INFLATION
FY 2003	0	(CURRENT YEAR WHICH WILL HAVE NO COSTS INCURRED)				
FY 2004	0	0	0	0	0	0
FY 2005	0	0	0	0	0	0
FY 2006	0	0	0	0	0	0
FY 2007	0	0	0	0	0	0
FY 2008	0	0	0	0	0	0
FY 2009	17	9	0	116,685	0	139,328
FY 2010	17	17	0	220,405	0	271,070
FY 2011	17	17	0	220,405	0	279,202
FY 2012	17	17	0	220,405	0	287,579
FY 2013	17	17	0	220,405	0	296,206
TOTAL TEN-YEAR FISCAL IMPACT:						1,273,385

THE DOC ESTIMATES THE INCREASE IN POPULATION WILL INCREASE INCREMENTALLY OVER THE FISCAL YEAR. FOR COST ESTIMATES, A SNAPSHOT OF THE MIDYEAR AVERAGE POPULATION WAS USED TO DETERMINE FISCAL

IMPACT

ASSUMPTIONS USED TO DETERMINE COST AND ROUNDED TO THE NEAREST WHOLE NUMBER INCLUDE

\$35.52 (FY02 COST) INMATE PER CAPITA COSTS WITH AN INFLATION RATE OF 3% PER EACH
SUBSEQUENT YEAR, AND

\$3.10 (FY02 COST) AVERAGE DAILY PROBATION COSTS WITH AN INFLATION RATE OF 3% PER EACH
SUBSEQUENT YEAR.

IF ADDITIONAL PERSONS ARE SENTENCED TO THE CUSTODY OF THE DOC DUE TO THE PROVISIONS OF THIS
LEGISLATION THE DOC WILL INCUR A CORRESPONDING INCREASE IN OPERATIONAL COST EITHER THROUGH
INCARCERATION (FY01 AVERAGE OF \$35.52 PER INMATE PER DAY, OR AN ANNUAL COST OF \$12,965 PER INMATE)
OR THROUGH SUPERVISION PROVIDED BY THE BOARD OF PROBATION AND PAROLE (FY01 AVERAGE OF \$3.10
PER OFFENDER PER DAY, OR AN ANNUAL COST OF \$1,132 PER OFFENDER).

ASSUMPTION (CONTINUED)

THE DOC IS UNABLE TO DETERMINE THE NUMBER OF ADDITIONAL INMATE BEDS THAT MAY BE REQUIRED AS A
CONSEQUENCE OF PASSAGE OF THIS PROPOSAL. ESTIMATED CONSTRUCTION COST FOR ONE NEW MEDIUM
TO MAXIMUM SECURITY INMATE BED IS \$55,000. UTILIZING THIS PER-BED COST PROVIDES FOR A
CONSERVATIVE ESTIMATE BY THE DOC, AS FACILITY START-UP COSTS ARE NOT INCLUDED AND ENTIRE
FACILITIES AND/OR HOUSING UNITS WOULD HAVE TO BE CONSTRUCTED TO COVER THE COST OF HOUSING
NEW COMMITMENTS RESULTING FROM THE CUMULATIVE EFFECT OF VARIOUS NEW LEGISLATION IF ADOPTED
AS STATUTE.

IN SUMMARY, SUPERVISION BY THE DOC THROUGH INCARCERATION OR PROBATION WOULD RESULT IN
ADDITIONAL COSTS AND ALTHOUGH THE EXACT FISCAL IMPACT IS UNKNOWN, IT IS ESTIMATED THAT
POTENTIAL COSTS WILL BE IN EXCESS OF THE INDICATED MEASURABLE DOLLAR AMOUNT PER YEAR AFTER THE
5TH YEAR OUT.

OFFICIALS FROM THE OFFICE OF STATE PUBLIC DEFENDER (SPD)
ASSUME THE PROPOSAL INCREASES THE PENALTIES FOR FORCIBLE
RAPE, FORCIBLE SODOMY, ATTEMPT TO COMMIT FORCIBLE RAPE,
AND ATTEMPT TO COMMIT FORCIBLE SODOMY. WITH INCREASED
PENALTIES, MORE CLIENTS WILL WAIVE PLEA OFFERS AND WANT
THEIR DAY IN COURT. LAST FISCAL YEAR, THE SPD PROVIDED

REPRESENTATION IN 174 RAPE CASES AND 81 SODOMY CASES. THE SPD ASSUMES AT LEAST 10 MORE CASES WILL GO TO TRIAL. EACH TRIAL WILL REQUIRE AT LEAST 60 HOURS OF ATTORNEY TIME. THEREFORE, THE SPD WOULD REQUIRE .25 FTE ATTORNEY. FOR EACH TRIAL, THE DEFENSE WILL REQUIRE DNA TESTING. EACH DNA TESTS WILL COST APPROXIMATELY \$8,000. THE SPD ESTIMATES THE COST OF THE PROPOSAL TO BE \$87,975 IN FY 04; \$102,250 IN FY 05; AND \$105,230 IN FY 06.

OVERSIGHT ASSUMES THE PROPOSAL COULD RESULT IN ADDITIONAL COURT TRIALS FOR THE OFFICE OF STATE PUBLIC DEFENDER (SPD) OVERSIGHT ASSUMES THE SPD COULD ABSORB THE INCREASED CASE LOAD WITHIN EXISTING RESOURCES. IF MORE THAN ONE BILL PASSES INCREASING PENALTIES ON EXISTING CRIMES OR CREATING NEW CRIMES, THE SPD COULD REQUEST ADDITIONAL FTE THROUGH THE APPROPRIATION PROCESS. OVERSIGHT OBTAINED INFORMATION WHICH ESTIMATES THE COST OF DNA TESTING TO BE \$800 PER SPECIMEN AND THE COST OF EXPERT TESTIMONY TO EXPLAIN AND DEFEND THE DNA TESTING TO BE \$200 PER HOUR. OVERSIGHT IS UNABLE TO DETERMINE THE NUMBER OF EXPERT TESTIMONY HOURS PER CASE. THEREFORE, OVERSIGHT ASSUMES THE SPD'S COST FOR DNA TESTING TO BE UNKNOWN, BUT LESS THAN \$100,000 PER YEAR.

<u>FISCAL IMPACT - STATE</u>	FY 2004	FY 2005	FY 2006
<u>GOVERNMENT</u>	(10 MO.)		
GENERAL REVENUE FUND			

<u>COSTS</u> – OFFICE OF STATE PUBLIC DEFENDER DNA TESTS	LESS THAN (\$100,000)	LESS THAN (\$100,000)	LESS THAN (\$100,000)
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<u>COSTS</u> – DEPARTMENT OF CORRECTIONS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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INCARCERATION/PROBATION COSTS*

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND*	LESS THAN <u>(\$100,000)</u>	LESS THAN <u>(\$100,000)</u>	LESS THAN <u>(\$100,000)</u>
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*DEPARTMENT OF CORRECTIONS COSTS EXPECTED TO EXCEED \$100,000 PER YEAR BEGINNING FY 2009.

<u>FISCAL IMPACT - LOCAL</u>	FY 2004	FY 2005	FY 2006
<u>GOVERNMENT</u>	(10 MO.)		

COSTS – POLITICAL SUBDIVISIONS	\$0 TO <u>(UNKNOWN)</u>	\$0 TO <u>(UNKNOWN)</u>	\$0 TO <u>(UNKNOWN)</u>
COSTS TO PROSECUTING ATTORNEYS	<u>N</u>	<u>N</u>	<u>N</u>

FISCAL IMPACT - SMALL BUSINESS

NO DIRECT FISCAL IMPACT TO SMALL BUSINESSES WOULD BE EXPECTED AS A RESULT OF THIS PROPOSAL.

DESCRIPTION

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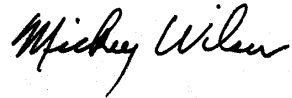
THE PROPOSAL WOULD INCREASE THE MINIMUM REQUIRED SENTENCE FOR FORCIBLE RAPE, ATTEMPTED FORCIBLE RAPE, FORCIBLE SODOMY, AND ATTEMPTED FORCIBLE SODOMY FROM FIVE TO TEN YEARS UNLESS THE CRIMES RESULT IN SERIOUS PHYSICAL INJURY OR INVOLVE A DEADLY WEAPON, IN WHICH CASE THE MINIMUM REQUIRED SENTENCE WOULD BE INCREASED FROM TEN TO FIFTEEN YEARS.

THIS LEGISLATION IS NOT FEDERALLY MANDATED, WOULD NOT DUPLICATE ANY OTHER PROGRAM AND WOULD NOT REQUIRE ADDITIONAL CAPITAL IMPROVEMENTS OR RENTAL SPACE.

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SOURCES OF INFORMATION

OFFICE OF ATTORNEY GENERAL
OFFICE OF STATE COURTS ADMINISTRATOR
DEPARTMENT OF CORRECTIONS
DEPARTMENT OF SOCIAL SERVICES
DEPARTMENT OF PUBLIC SAFETY
– MISSOURI STATE HIGHWAY PATROL
OFFICE OF PROSECUTION SERVICES
OFFICE OF STATE PUBLIC DEFENDER



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Director
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